



Regional Citizens' Advisory Council / *"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."*

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

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December 22, 2009

Randy Bates, Director
Division of Coastal and Ocean Management
Department of Natural Resources
Juneau, Alaska 99811-1030

Re: Alaska Coastal Management Program proposed changes to statutes (AS 46.39 and 46.40) and regulations (11 AAC 110, 112, and 114)

Dear Mr. Bates:

The Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) submits these comments on the draft informal proposed changes to the Alaska Coastal Management Program (ACMP) statutes and regulations. We understand there is no requirement for public involvement at this stage, and we appreciate the opportunity provided by the Alaska Department of Natural Resources (ADNR) to submit comments.

Our comments focus on the ACMP statutes and regulations that relate to the mission of the PWSRCAC. PWSRCAC is an independent, non-profit corporation whose mission is to promote environmentally safe operation of the Valdez Marine Terminal (VMT) and associated tankers. Our work is guided by the Oil Pollution Act of 1990 and by our contract with Alyeska Pipeline Service Company (APSC). PWSRCAC's 18 member organizations are communities in the region affected by the 1989 Exxon Valdez oil spill, as well as commercial fishing, aquaculture, Native, recreation, tourism, and environmental groups.

PWSRCAC recognizes that some positive changes are proposed for the ACMP, especially efforts to reintegrate the Alaska Department of Environmental Conservation (ADEC) into the ACMP consistency review process. Separation of ADEC permitting from the coordinated ACMP review process in 2003 resulted in a piecemealed review process and the inability to consider some air and water quality impacts to coastal resources and uses.

PWSRCAC recommends two changes to the proposed regulations that would greatly improve the process. First, we recommend reinstituting the RCACs as review participants, and second, we recommend removing the proposal to conduct separate reviews for certain ADEC permits, such as oil spill contingency plans.

As a result of the removal of ADEC permits from the consistency review process in 2003, the RCACs were removed from the definition of review participant. The RCACs were added to the definition of review participants in 6 AAC 80.990(a)(33) in the 1990s after a thorough, deliberative process that involved agencies, industry and coastal districts.¹ According to the May 3, 2004 ADNR *Response to Public Comments on Draft Proposed ACMP Regulations*, the reason for removing RCACs from the definition “was not to cut them out of the process, but to fully effect the DEC carveout set forth in HB 191.” With elimination of the ADEC carveout, there is no reason not to add RCACs back into the definition.

Changes proposed to 11 AAC 110.020 would exempt certain ADEC authorizations, including oil spill contingency plans, from the coordinated consistency review process and subject them to a separate review. We believe this provision would lead to a piecemealed review of future projects and result in improper phasing of reviews. As long as an applicant has done sufficient preparation before submitting a coastal project questionnaire, there would be no need to exclude this authorization from the review. If an applicant qualifies for a phased review under provisions in AS 46.40.094, an exemption under this regulation would be unnecessary. We are not aware of any instances in Prince William Sound where it would have been advisable to phase an oil spill contingency plan from a coordinated ACMP review. If there have been problems that we are not aware of, we would appreciate participating in discussions to find an acceptable solution.

As discussed above, part of our mission is to promote citizen involvement in ensuring safe operation of the Valdez Marine Terminal and operation of associated tankers in Prince William Sound. With that in mind, we wish to comment on three issues related to coastal districts and public involvement.

First, PWSRCAC recommends the proposed language in AS 46.40.030 and AS 46.40.070 be amended to make it clear that coastal districts have the ability to write enforceable policies that address effects to coastal resources or uses. We agree that policies should not duplicate existing laws, but districts should be able to augment state or federal laws as long as they are not preempted from doing so.

¹ The definition at 6 AAC 80.990(a)(33) included the following provision: “(B) if a project includes an oil discharge prevention and contingency plan required under AS 46.40.030, an affected regional citizens advisory council as established under 33 U.S.C. 2732(d), in addition to the persons listed in (A) of this paragraph.”

Second, we recommend retention of provisions in AS 46.40.050(b) that would allow formation of a new coastal resource district. As you know, there are only three small coastal districts in Prince William Sound: Whittier, Valdez and Cordova. The ability for a new coastal district to be created in the region should be retained, especially in the event a regional government is established.

Third, PWSRCAC recommends reestablishment of the Coastal Policy Council. The council provided an important role in approving coastal districts plans and regulation changes during its many years of operation. If the ACMP remains within a state resource agency, it is important that a council be created to represent the interests of the stakeholders.

Thank you for the opportunity to provide comments. If you have any questions, please contact Linda Swiss at 273-6226 or swiss@pwsrcac.org.

Sincerely,



John S. Devens, Ph.D.

Executive Director

Cc: Mike Munger, CIRCAC
Barry Roberts